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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,469	10/22/2003	Akinori Hayakawa	031244	4849
23850	7590	05/02/2005	EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP			WEISS, HOWARD	
1725 K STREET, NW			ART UNIT	
SUITE 1000			PAPER NUMBER	
WASHINGTON, DC 20006			2814	

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,469

Applicant(s)

HAYAKAWA ET AL.

Examiner

Howard Weiss

Art Unit

2814

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 ~~is/are~~ pending in the application.
- 4a) Of the above claim(s) 26-30 and 41-48 ~~is/are~~ withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 31-40 ~~is/are~~ rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1203</u> . | 6) <input type="checkbox"/> Other: _____ |

Attorney's Docket Number: 031244

Filing Date: 10/22/03

Continuing Data: none

Claimed Foreign Priority Date: 10/22/02, 12/6/02, 5/14/03 (JPX)

Applicant(s): Hayakawa et al. (Sato, Morito, Sekine)

Examiner: Howard Weiss

Election/Restrictions

1. Applicant's election without traverse of the group I invention, Claims 1 to 25 and 31 to 40, in the reply filed on 2/15/05 is acknowledged.
2. Claims 26 to 30 and 41 to 48 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant is requested to cancel the non-elected claims as part of a complete response to this office action. Cancellation of the non-elected claims would not preclude the later filing of a divisional application on the non-elected invention (please see 35 USC 120 and 121).

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the

various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 to 25 and 31 to 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimoyama (JP-2002006352) and Steffens (U.S. Patent No. 6,693,937).

Shimoyama et al. show most aspects of the instant invention (e.g. Figure 1) including:

- a light oscillation part 6
- a current leading-out part 4 with a plurality of switches
- a light amplification guide part 3

Shimoyama et al. do not show either the light oscillation part or the light amplification guide part using current injection and the structure claimed. Steffens teaches (e.g. Figures 1 to 5) to use current injection and the structure claimed (e.g. Column 3 Line 28 to Column 6 Line 50) to provide an improved laser structure (Column 2 Lines 42 to 45). It would have been obvious to a person of ordinary skill in the art at the time of invention to use current injection and the structure claimed as taught by Steffens in the device of Shimoyama et al. to provide an improved laser structure.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wolf et al. (IEEE Photonics Tech Letters 1993) teach the use of current injection in tunable lasers.

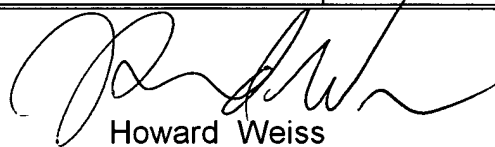
7. Paper copies of cited U.S. patents and U.S. patent application publications will cease to be mailed to applicants with Office actions as of June 2004. Paper copies of foreign patents and non-patent literature will continue to be included with office actions. These cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov), from the Office of Public Records and from commercial sources. Applicants are referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197 for information on this policy. Requests to restart a period for response due to a missing U.S. patent or patent application publications will not be granted.
8. Papers related to this application may be submitted directly to Art Unit 2814 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (15 November 1989). The Art Unit 2814 Fax Center number is **(703) 872-9306**. The Art Unit 2814 Fax Center is to be used only for papers related to Art Unit 2814 applications.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Howard Weiss at **(571) 272-1720** and between the hours of 7:00 AM to 3:00 PM (Eastern Standard Time) Monday through Friday or by e-mail via [**Howard.Weiss@uspto.gov**](mailto:Howard.Weiss@uspto.gov).

Art Unit: 2814

10. The following list is the Examiner's field of search for the present Office Action:

Field of Search	Date
U.S. Class / Subclass(es): 257/116; 372/ 20, 44	4/28/05
Other Documentation: PLUS Analysis Report	4/21/05
Electronic Database(s):	4/28/05

HW/hw
28 April 2005



Howard Weiss
Primary Examiner
Art Unit 2814